

(b)(6)

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

DATE: **JAN 08 2015**

OFFICE: TEXAS SERVICE CENTER

FILE: [REDACTED]

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,


Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Texas Service Center (Director). It is now on appeal before the Chief, Administrative Appeals Office (AAO). The appeal will be dismissed.

The petitioner designs and services video software. It seeks to permanently employ the beneficiary in the United States as a senior solutions architect and to classify him as an advanced degree professional pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2).

On June 5, 2014, the Director denied the petition on the ground that the beneficiary did not have a U.S. master's degree or a foreign equivalent degree, as defined in 8 C.F.R. § 204.5(k)(2) and required under the terms of the labor certification to qualify for the job offered. The petitioner filed a timely appeal.

On November 13, 2014, we issued a Notice of Intent to Dismiss and Request for Evidence (NOID/RFE). While the record showed the beneficiary to have a "Diploma in Electrical & Computer Engineering" from a Greek university, we noted that this educational credential appeared to be comparable to a bachelor's degree in the United States. Accordingly, we requested input from the petitioner as to how the beneficiary met the educational requirement of the labor certification. We also requested additional documentation to establish the petitioner's ability to pay the proffered wage of the job offered from the priority date of the instant petition (January 22, 2013) up to the present, as well as the proffered wages of all other beneficiaries for whom I-140 petitions have been filed by the petitioner. Finally, we noted conflicting information from the petitioner as to whether or not the job offered is a newly created position, and requested an explanation for this inconsistency. The petitioner was afforded 30 days to respond to the NOID/RFE.

The petitioner did not respond to the NOID/RFE within the 30-day period allowed, or at any time up to the date of this decision. If a petitioner fails to respond to a request for evidence or a notice of intent to deny by the required date, the petition may be summarily denied as abandoned, denied based on the record, or denied for both reasons. *See* 8 C.F.R. § 103.2(b)(13)(i). The failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition. *See* 8 C.F.R. § 103.2(b)(14).

Since the petitioner has not responded to the NOID/RFE of November 13, 2014, the petition is deniable under the regulatory provisions cited above. Accordingly, the appeal will be summarily dismissed.

ORDER: The appeal is dismissed.